In the High Court of Uttaranchal at Nainital.

Criminal Misc. Application No. 259 of 2004

Raj Kishore Oberai @ Raju
S/o Amar Nath R/o 170 Shravan
Nath Nagar, P.S. Kotwali,
District Haridwar ……..…Petitioner.

Vs.

1. State of Uttaranchal.
2. Additional Sessions Judge,
   /I F.T.C. Haridwar.
3. Tarachand S/o late Thakur Das
   R/o Janki Bhawan, Sharvan Nath
   Nagar, Haridwar ...…Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri Vivek Shukla learned counsel for the petitioner and Sri A. Rab learned Addl. Government Advocate and perused the record.

By means of this petition filed under section 482/483 of the Code of Criminal Procedure (for short 'Code') the petitioner prayed for quashing of the charge sheet and summoning order dated 6-02-2001 passed by C.J.M. Haridwar in criminal case no. 421/2001 and the order dated 31.3.2004 passed by Additional Sessions Judge/First F.T.C. Haridwar in criminal revision no. 150/2003.

Perusal of the record indicate that cognizable offence was disclosed from the petition preferred under section 156(3) of the 'Code'. On it the order was passed initially which was not favourable to the complainant-respondent no.3 but subsequently another application was moved and on it the order was passed on 2-8-1996 directing the police concerned to register and investigate. Charge sheet had been submitted. Aggrieved by the same a revision was preferred before the Sessions Judge which had been dismissed. Subsequently also the jurisdiction of the court was challenged and the matter was again agitated before the learned Magistrate and on this occasion also the dispute came to be considered in the latest criminal

revision no. 150/2003 by the Additional Sessions Judge, Haridwar and by judgment and order dated 31.3.2004 the contention of the petitioner was once again rejected.

Having considered these aspects of the matter there can be no gain saying that cognizable offence had been disclosed right from the very beginning and after the investigation even the charge sheet had been submitted. This court will not embark upon an enquiry as to whether the case can be terminated in the conviction on the basis of reliable evidence. This is the function of the trial court.

Having considered the glaring fact of discloser of cognizable offence the petition does not merit admission and therefore the same is dismissed in limine.

Dated: 10-06-2004 **(Irshad Hussain, J.)**

ISB